

**MAY 16 2003**

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

CATHY A. CATTERSON  
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CHRIS HYONGCHONG KIM,

Defendant - Appellant.

No. 02-30186

D.C. No. CR-01-00132-MJP

MEMORANDUM\*

Appeal from the United States District Court  
for the Western District of Washington  
Marsha J. Pechman, District Judge, Presiding

Submitted May 5, 2003\*\*  
Seattle, Washington

Before: O'SCANNLAIN, GOULD, Circuit Judges, and BOLTON,\*\*\* District  
Judge.

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

\*\* This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

\*\*\* The Honorable Susan R. Bolton, United States District Court Judge for the District of Arizona, sitting by designation.

Chris Hyongchong Kim appeals his jury conviction of conspiracy to distribute pseudoephedrine on the ground that 21 U.S.C. § 841(c)(2) is unconstitutionally vague. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo and affirm. See *United States v. Davis*, 36 F.3d 1424, 1434 (9th Cir. 1994) (constitutionality of a criminal statute is reviewed de novo).

Section 841(c)(2) criminalizes the “knowing” or “intentional” possession or distribution of a listed chemical by a person “knowing, or having reasonable cause to believe, that the listed chemical will be used to manufacture a controlled substance . . . .” The evidence at trial demonstrated that Kim had cause to believe that the pseudoephedrine he was purchasing and distributing in large quantity was going to be used in the manufacture of methamphetamine. Because the statute provided Kim with adequate notice that his conduct was criminal, it is not unconstitutionally vague as applied to him. *Easyriders Freedom F.I.G.H.T v. Hannigan*, 92 F.3d 1486, 1493 (9th Cir. 1996) (where a law at issue does not implicate First Amendment rights, it may be challenged for vagueness only as applied); *United States v. Hogue*, 752 F.2d 1503, 1504 (9th Cir. 1985) (a criminal statute is not vague if it provides adequate notice that the defendant’s conduct is prohibited in terms that a reasonable person of ordinary intelligence would understand); *United States v. Pruitt*, 719 F.2d 975, 977 (9th Cir. 1983) (*per curiam*) (same).

AFFIRMED.